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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/660,524 | 09/12/2003 | BRIAN ELI BERL ILLION | 13331-004 | 5320 |

1059 7590 10/15/2007

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| EXAMINER | |
|---|---|
| CHAMPAGNE, LUNA | |
| **ART UNIT** | **PAPER NUMBER** |
| 3627 | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/660,524 | ELI BERL ILLION, BRIAN | |
| | Examiner | Art Unit | |
| | Luna Champagne | 3627 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *24 September 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12 September 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *10/27/03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 6-10, 12-15, ~~18-23~~ 18-21, 23 are rejected under 35 U.S.C. 102(e) as being unpatentable by Bloom (6,974,928 B2).

RC 10/6/07

Re claims 1 and 13, Bloom discloses a method of delivering one of a plurality of identical products (*same SKU items*) associated with a seller to a purchaser/a plurality of purchasers, said method comprising: (a) a first delivery module for/transporting the identical products in a delivery circuit that includes a plurality of delivery nodes by transporting the identical products between delivery nodes at a first speed *(see e.g. col. 2, lines 50-56, col. 13, lines 62-64);* (b) a distribution module associated with said first delivery module for/determining if one of said identical products has been ordered by one of the purchasers *(see e.g. col. 2, lines 65-67)*; (c) if (b) is true then determining which of said plurality of delivery nodes is closest to said purchaser *(see e.g. col. 10, lines 51-57)*; (d) a second delivery module associated with said distribution module for /providing the closest one of said identical products to the delivery node identified in (c) along the delivery circuit *(see e.g. col. 8, lines 21-24)* and then transporting said closest

one of said identical products from the delivery node identified in (c) to said purchaser*(see e.g. fig.1 and col. 6, lines 55-59)*.

Re claims 2 and 14, Bloom does not explicitly disclose a method wherein (a) further comprises associating each of said identical products with a unique tracking number and wherein *(see e.g. col.2, lines 35-41),* (d) further comprises determining the destination address of said purchaser and pushing said unique tracking number and destination address to the delivery node identified in (c) prior to the physical arrival of the one of said identical products at the delivery node identified in (c) (*see e.g. col. 1, lines 42-45)*.

Re claims 3 and 15, Bloom discloses a method/system, wherein (a) further comprises associating each of said identical products with a destination node and wherein step (c) further comprises recording said delivery node identified in (c) as the destination node for said closest one of said identical products *(see e.g. col. 12, lines 26-30)*.

Re claims 6 and 18, Bloom discloses a method/system, wherein (d) further comprises transporting the closest one of said identical products through a series of delivery nodes to the delivery node identified in (c) *(see e.g. col. 6, lines 14-21)*.

Re claims 7 and 19, Bloom discloses a method/system, wherein (d) further comprises storing the closest one of said identical products at the delivery node identified in (c) (see e.g. col. 6, lines 32-40).

Re claims 8 and 20, Bloom discloses a method/system, wherein the transportation of the product from said identified delivery node to the purchaser is conducted at a second speed wherein said first speed is less than said second speed *(see e.g. col. 143, lines 1-5).*

Re claims 9 and 21, Bloom discloses a method/system, wherein the products are transported within a sub-set of said delivery nodes to service a particular section of said delivery circuit *(see e.g. col. 129, lines 35-37).*

Re claim 10, Bloom discloses a method/system, further comprising the delivery of the products from the seller to the delivery circuit *(see e.g. col.8, lines 9-24).*

Re claims 12 and 23, Bloom discloses a method/system, further comprising: (I) determining whether there is a cluster of products within said delivery circuit; (II) (*the needed quantity is zero),* if (I) is true, then rebalancing the flow of said products within said delivery circuit by re-directing at least some of said products *((see e.g. col. 53, lines 5-11).*

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 4, 5, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bloom (6,974,928 B2), in view of Official Notice.

Claims 4, 5, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bloom (6,974,928 B2), in view of Official Notice.

Re claims 4, 5, 16 and 17, Bloom discloses a method/system, wherein (a) further comprises associating each of said identical products with a destination node and a default destination node, wherein said destination node is the closest delivery node to the current position of the product *(see e.g. col. 10, lines 41-51)*.

Bloom does not explicitly disclose a method/system where the default destination node is a delivery node adjacent to the destination node; wherein when the product reaches the destination node, (a) further comprises changing the destination node so that it corresponds to the previous default destination node and to change the default destination node by choosing from the set of delivery nodes adjacent to the destination node.

However, the Examiner takes Official Notice that, it is well known in the art that suppliers first try to deliver to the location closest to the customer and, as a backup,

they have a default delivery location, in case delivery is not possible at the first location. It is beneficial in terms of time and money to choose locations in close proximity, as mentioned in Bloom column 10, lines 41-57, where a list of locations is provided to the customer.

Therefore, at the time of the invention, it would have been obvious to a person of ordinary skill in the art, to modify Bloom and include the steps of where the default destination node is a delivery node adjacent to the destination node; wherein when the product reaches the destination node, (a) further comprises changing the destination node so that it corresponds to the previous default destination node and to change the default destination node by choosing from the set of delivery nodes adjacent to the destination in order in order to save time, provide faster service and increase productivity.

5. Claims 11 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bloom (6,974,928 B2), in view of Kennedy et al. (7,085,729 B1).

Re claims 11 and 22, Bloom does not explicitly disclose a method/system, further comprising: (i) estimating demand for the products at each delivery node associated with said delivery circuit; (ii) providing a sufficient quantity of the products from the seller to said delivery circuit for prospective delivery.

However, Kennedy et al. disclose a method/system, further comprising: (i) estimating demand for the products at each delivery node associated with said delivery

circuit; (ii) providing a sufficient quantity of the products from the seller to said delivery circuit for prospective delivery *(see e.g. col.2, lines 64-67).*

Therefore, at the time of the invention, it would have been obvious to a person of ordinary skill in the art, to modify Bloom and include the steps of estimating demand for the products at each delivery node associated with said delivery circuit; (ii) providing a sufficient quantity of the products from the seller to said delivery circuit for prospective delivery, as taught by Kennedy et al., in order to better plan and manage distribution of products.

6. It is noted that element c of claim 1 is depending on element d of claim 1 being true. If element b is not true, then the limitations following element b (e.g. elements c and d) will not hold any weight in the claim and therefore will not be performed.

Similarly, in claims 12 and 23, part II will not hold any weight in the claim if part I is not true.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chalmers et al. (7,266,513 B2), Groff et al. (2005/0080635 A1), Kakuta (6,456,900 B1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luna Champagne whose telephone number is (571) 272-7177. The examiner can normally be reached on Monday - Friday 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Luna Champagne
Examiner
Art Unit 3627

October 1, 2007

10/6/07

F. RYAN ZEENDER
PRIMARY EXAMINER